

VZCZCXRO5695
PP RUEHPT
DE RUEHBY #1324/01 3640508
ZNR UUUUU ZZH
P 290508Z DEC 08
FM AMEMBASSY CANBERRA
TO RUEHC/SECSTATE WASHDC PRIORITY 0758
INFO RUEHBN/AMCONSUL MELBOURNE PRIORITY 5875
RUEHPT/AMCONSUL PERTH PRIORITY 4142
RUEHDN/AMCONSUL SYDNEY PRIORITY 4083
RUEKDIA/DIA WASHINGTON DC PRIORITY
RUEAIIA/CIA WASHINGTON DC PRIORITY
RUEAHLA/DEPT OF HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY

UNCLAS SECTION 01 OF 02 CANBERRA 001324

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [PTER](#) [AS](#)

SUBJECT: HANEEF INQUIRY RECOMMENDS REVIEW OF CT LAWS AND PROCEDURES

REF: 07 CANBERRA 1143

11. (U) SUMMARY: A judicial inquiry into the collapsed prosecution of former terrorism suspect Dr Mohammed Haneef, which occurred during the Howard Government in July 2007 (reftel), found no evidence connecting Haneef to terrorist activities. It recommended an independent review of counter-terrorism laws, changes to investigation procedures, and better co-ordination between intelligence and law enforcement agencies. The Government, which said it would implement most of the recommendations, maintained it would not engage in a "witch hunt." END SUMMARY.

WHAT THE INQUIRY FOUND

12. (U) In March this year Attorney General Robert McClelland announced a judicial inquiry into the detention of Dr Mohammed Haneef headed by Former NSW Supreme Court Judge John Clarke. Haneef had been arrested at Brisbane airport July 2, 2007 after British police found evidence linking him to two cousins who were involved in the June 30, 2007 attempt to crash a car full of propane canisters into the Glasgow International Airport Terminal. Haneef was held without charge until July 26. Kevin Andrews, the Howard Government's Immigration Minister at the time, had canceled Haneef's visa during the investigation to ensure that he remained in custody. On July 26 the prosecution dismissed the charges. Haneef was released and returned to India. On December 23, the government released Clarke's report, which concluded that:

- The initial arrest and detention of Haneef was justifiable.
- There was "no evidence that Haneef was associated with or had foreknowledge of the terrorist events in the UK, or of the possible involvement of his second cousins Dr Sabeel Ahmed and Mr Kafeel Ahmed in terrorist activities."
- ASIO (Australian Security Intelligence Organization) had provided the Department of Immigration with a document advising there was "no evidence that Dr Haneef had foreknowledge of or participated in the UK terrorist incidents."
- Although there was no conspiracy, the Immigration Minister's decision to cancel Haneef's visa was "mystifying." Kevin Andrews, the Minister at the time, also did not give ASIO's advice adequate consideration.
- The Australian Federal Police (AFP) had claimed that, until it called in the Commonwealth Director of Public Prosecutions officer, it did not believe there was enough evidence to charge Dr Haneef.
- Director of Public Prosecutions, Clive Porritt, wrongly

advised police to charge Haneef, and AFP Commander Ramzi Jabour "had lost objectivity."

- "Considering that both organizations (AFP and ASIO) came within Attorney General Philip Ruddock's portfolio, his lack of concern for this fundamental difference in opinion could be viewed as troubling."

- "The 'extension of time' provisions in the Crimes Act, which fail to provide a cap or limit on the detention period, removed or diminished the sense of urgency that should have been brought to the task of determining whether to charge or release. The deficiencies in the system of judicial oversight also became obvious".

GOVERNMENT ACCEPTS RECOMMENDATIONS

¶3. (U) In response to the report, the Attorney General said the Government would consider an independent review of Commonwealth counter-terrorism laws. He also stated that the Government would look at removing uncertainties regarding QGovernment would look at removing uncertainties regarding terrorism offenses in the Criminal Code, adding the Minister for Immigration to the distribution list for security intelligence reports produced by ASIO, and having the National Counter-Terrorism Committee develop procedures outlining operational protocols for counterterrorism investigations.

REACTION

¶4. (U) McClelland ruled out a government apology to Haneef,

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maintaining this was a matter for members of the Howard Government. Any disciplinary action against Commonwealth officials would also be left to agency heads, the Attorney General said, adding that there would be no "witchhunt." Former Immigration Minister Andrews defended his decision to cancel Haneef's visa, claimed he was never provided with ASIO material, and pointed to the finding that there was no conspiracy to cancel Haneef's visa. Former Attorney General Ruddock said he would not apologize and that there was "nothing in the report which suggests that the conduct that undertook should have been conducted in any other way." Haneef's lawyer said it was a "complete vindication and exoneration of Dr Haneef, " who would be pursuing "substantial" compensation.

¶5. (SBU) COMMENT: Despite the report's criticism of Andrews and Ruddock, the Rudd government will not attempt to make political mileage out of this issue. When Haneef was arrested in July 2007, the Labor Party was very careful not to be seen as "soft" on national security and it offered "in principle, bi-partisan support" to the Howard government. Mindful of the fact that his core working-class supporters approved of the Howard Government's strong stance on national security, Prime Minister Rudd is also not likely to significantly water down counter-terrorism laws.

MCCALLUM